

AFTER RECORDING, RETURN TO:

City Secretary
City of McKinney
P.O. Box 517
222 N. Tennessee Street
McKinney, Texas 75069

**City of McKinney, Texas
FACILITIES AGREEMENT**

(Deferral of Receipt of LOMR from FEMA – Cash Deposit)

PAINTED TREE

THIS AGREEMENT, entered into effective the ____ day of _____, 2024, by and between **CITY OF MCKINNEY**, a Texas municipal corporation and home-rule city ("CITY"), and **JEN TEXAS 22 LLC**, a Texas limited liability company, whose address is 208 S. Johnson Street, Suite 101, McKinney, Texas 75069, ("DEVELOPER") in conjunction with **GRBK EDGEWOOD LLC**, a Texas limited liability company, whose address is 2805 Dallas Parkway, Suite 400, Plano, Texas 75093, **TSHH, LLC**, whose address is 5501 Headquarters Drive, Suite 300W, Plano, Texas 75024, **DREES CUSTOM HOMES, L.P.**, a Texas limited partnership, whose address is 6225 North State Highway 161, Suite 150, Irving, Texas 75038, **BLOOMFIELD HOMES, L.P.**, a Texas limited partnership, whose address is 12221 Merit Drive, Suite 1750 Dallas, Texas 75251, **CYRENE AT PAINTED TREE LLC**, a Texas limited liability company, whose address is 1601 Elm Street, Suite 4360, Dallas, Texas 75201, and **CYRENE AT PAINTED TREE ONE LLC**, a Texas limited liability company, whose address is 1601 Elm Street, Suite 4360, Dallas, Texas 75201 (individually and collectively hereinafter referred to as "OWNERS") witnesseth that:

WHEREAS, Article 3, "Subdivision Regulations," (the "Subdivision Regulations") contained in Chapter 150, "Unified Development Code," of the Code of Ordinances, City of McKinney, Texas (the "McKinney Code"), establishes procedures and standards for the development and subdivision of land and for the surveying and platting thereof, requiring the installation of adequate public facilities to serve the subject property being developed and providing penalties for violations, among other things; and

WHEREAS, Section 305A.5.c. of the Subdivision Regulations requires a Preliminary Plat to provide a layout of lots, roads, utilities, drainage, and other public facilities and services in conformance with the requirements contained in the CITY's Engineering Design Manual ("Engineering Design Manual"); and

WHEREAS, Section 4.2.B of the Engineering Design Manual generally prohibits residential and non-residential structures from being located within drainage

easements and floodplains and strictly regulates proposed developments occurring within the Federal Emergency Management Administration (“FEMA”) floodway/floodplain located within the “Special Flood Hazard Area” as shown on the current effective Flood Insurance Rate Map (“FIRM”) for the area in question; and

WHEREAS, the “Special Flood Hazard Area” is land in a floodplain that is shown on the FIRM as being subject to a one percent or greater chance of flooding in any given year; and

WHEREAS, Section 4.2.B of the Engineering Design Manual also requires a developer or property owner to obtain a Letter of Map Revision (“LOMR”) from FEMA that defines or redefines the location of a FEMA floodway/floodplain shown on the FIRM before the record plat for a development project which seeks to develop land that is located within a Special Flood Hazard Area may be filed for record with Collin County; and

WHEREAS, Section 902 of the Subdivision Regulations defines a “No-Build Area” as being the appropriate placement and designation for an area on a plat within which erosion hazard setback easements, drainage easements, and floodplain areas should be included because construction and development activities are restricted and even prohibited in a No-Build Area; and

WHEREAS, Section 302D.3 of the Subdivision Regulations mandates that any required No-Build Areas within the plats for residential subdivisions be included within an easement designated as a common area; and

WHEREAS, Section 302D.4 of the Subdivision Regulations requires that a homeowners’ or property owners’ association shall be established and be responsible for the supervision, maintenance, and restoration of any No-Build Areas that are included in the plat of the parent tract, including any No-Build Areas contained in a common area or on a buildable lot; and

WHEREAS, Section 302D.4.a of the Subdivision Regulations requires that the ownership of any common areas containing No-Build Areas shall be conveyed to the property owners’ or homeowners’ association in fee simple title; and

WHEREAS, Section 302D.4.b of the Subdivision Regulations requires that any No-Build Area included in and proposed as a part of an otherwise buildable lot on a plat shall be placed in an irrevocable perpetual easement and conveyed to the homeowners’ or property owners’ association; and

WHEREAS, Section 302D.5 of the Subdivision Regulations requires that floodplain and No-Build Areas shall adhere to the same requirements for platting, phasing, deferral, delay, and other modifications of improvements as specified in Section 301E of the Subdivision Regulations; and

WHEREAS, Section 301E.1.b of the Subdivision Regulations provides “No property shall be subdivided or phased in a manner that circumvents any required . . . easement dedications, unless otherwise stated herein, or approved by agreement with the City”; and

WHEREAS, the development of the subdivision to be known as **PAINTED TREE** (the “Subdivision”) involves certain pro rata payments, city participation in cost, escrow deposits or other future considerations, and/or other nonstandard development regulations, that trigger the requirement for a Facilities Agreement by and between the CITY and the DEVELOPER and OWNERS in accordance with Section 302A of the Subdivision Regulations, as amended; and

WHEREAS, DEVELOPER and OWNERS seek to plat twenty-four (24) residential lots within the Subdivision that are located within the current FEMA floodway/floodplain identified on the FIRM (each a “Floodplain Lot” as more particularly defined in Section B, below) and are also situated within a blanket drainage easement granted by OWNERS’ predecessors-in-interest to the Collin County Soil and Water Conservation District (the “CCSWCD Easement”) for which a metes and bounds description specifically identifying the location of the drainage easement does not exist and the limits of which drainage easement the DEVELOPER and OWNERS assert are not readily discernible; and

WHEREAS, DEVELOPER and OWNERS are preparing and processing one or more requests that FEMA issue a Letter of Map Revision based on Fill (a “LOMR-F”) stating that each Floodplain Lot which has been elevated by fill material will not be inundated by the 100-year flood and therefore is no longer located within the Special Flood Hazard Area; and

WHEREAS, the approval of a LOMR-F by FEMA may remove the federal requirement that a lender require flood insurance coverage for the property that is the subject of the LOMR-F, BUT a LOMR-F does not modify the FIRM as required by the Subdivision Regulations and the Engineering Design Manual for the plat of the Subdivision to be recorded; and

WHEREAS, DEVELOPER and OWNERS are also preparing and processing a request that FEMA issue a LOMR that will modify the FIRM and thereby establish that the “Floodplain Lots,” defined below, and the other developable areas within the Subdivision are not situated within the FEMA floodway/floodplain identified on the FIRM as required by the Subdivision Regulations and the Engineering Design Manual to permit the recording of the plat for the Subdivision and the development of the Property subject to the plat; and

WHEREAS, DEVELOPER and OWNERS request the approval of the Preliminary Plat(s) for each of the various phases of the Subdivision (each being a "Preliminary Plat") with each of the Floodplain Lots within the Preliminary Plat being identified with the statement "Subject to a Requested LOMR-F" rather than designating those Floodplain Lots as being situated within the FEMA floodway/floodplain and including each of the Floodplain Lots in No-Build Areas and common areas conveyed in fee simple to the property owners' or homeowners' association for the Subdivision as required by the Engineering Design Manual; and

WHEREAS, DEVELOPER and OWNERS request the approval and recording of the final plat(s) and/or record plat(s) of the various phases of the Subdivision (each being a "Final/Record Plat") as the Final/Record Plats for the various phases within the districts thereof are ready for approval and each of the Floodplain Lots within each such proposed Final/Record Plat being identified as (1) "Subject to a Requested LOMR-F" if still awaiting a determination from FEMA, or (2) "Granted a LOMR-F" if FEMA has issued a LOMR-F, or (3) "Floodplain" or "Drainage Easement" or "No-Build Area" as required by the Subdivision Regulations and the Engineering Design Manual if FEMA denied a LOMR-F for a particular Floodplain Lot; and

WHEREAS, DEVELOPER and OWNERS agree that DEVELOPER and OWNERS shall be responsible for preparing and obtaining approval of revisions or amendments to the Preliminary Plat and/or Final/Record Plat, as applicable, (collectively the "Applicable Plat(s)") for each "Impacted Phase" (defined below) that accurately reflects the LOMR-F status of each of the Floodplain Lots within each Impacted Phase upon receipt of approval or disapproval of the LOMR-F's requested for each of the Floodplain Lots in a particular Impacted Phase by FEMA; and

WHEREAS, DEVELOPER and OWNERS further agree that DEVELOPER and OWNERS shall be responsible for preparing and obtaining approval of a LOMR from FEMA following FEMA's approval or disapproval of the LOMR-F's requested for all of the Floodplain Lots and upon receipt of the LOMR issued by FEMA to thereafter prepare and obtain approval of a revised or amending Preliminary Plat and/or Final/Record Plat, as applicable, for so much of the Floodplain Lots or the Impacted Phase(s) or the Property as may be required by the Subdivision Regulations to accurately depict and identify the location of the FEMA floodway/floodplain upon, over, and across or adjacent to the Subdivision; and

WHEREAS, DEVELOPER and OWNERS have entered into a separate contract with one or more Engineering or Surveying consultant(s) for the preparation of a request to be submitted to FEMA for consideration of (1) a request for the issuance of a LOMR-F for each of the Floodplain Lots and (2) a LOMR to change the FEMA floodway/floodplain designation of the Floodplain Lots and

redefine the location of the FEMA floodway/floodplain within the Subdivision, and has agreed to escrow with the CITY an amount covering 120% of the total cost of said contract(s); and

WHEREAS, DEVELOPER and OWNERS have entered into a separate contract with one or more Engineering or Surveying consultant(s) to prepare and submit and obtain approval of (1) revisions and/or amendments to the Applicable Plat(s) as may be required to accurately reflect FEMA's determination set out in the LOMR-F regarding each Floodplain Lot for which a LOMR-F is approved or issued or disapproved in each Impacted Phase; and (2) such revisions and/or amendments to the Applicable Plat(s), or portions thereof, as may be required to accurately reflect FEMA's determination regarding the LOMR issued by FEMA for the Subdivision to bring the designation of such Floodplain Lots and the Impacted Phases including the revised location of the FEMA floodway/floodplain into full conformity with the Subdivision Regulations and has also agreed to escrow with the CITY an amount covering 120% of the total cost of said contract; and

WHEREAS, DEVELOPER and OWNERS understand and agree that FEMA's issuance or non-issuance of a LOMR-F for any Floodplain Lots and/or a LOMR and any modification to the FEMA floodway/floodplain and the FIRM and the CITY's approval of any Applicable Plat(s) of the Property and any Impacted Phases and Floodplain Lots situated within said Impacted Phases does not alter and shall not be interpreted as altering or removing the Property and any Floodplain Lots from the CCSWCD Easement granted by OWNERS' predecessors-in-interest to the Collin County Soil and Water Conservation District and shall not supersede the limitations and restrictions imposed on construction within a drainage easement set out in the Subdivision Regulations or the requirement to identify the location of the CCSWCD Easement on all plats of the Property including, but not limited to, any plats and replats of the Impacted Phases and the Floodplain Lots.

NOW THEREFORE, in consideration of the intent and desire of the DEVELOPER, as set forth herein, and to gain approval of the CITY to record said Plat, the DEVELOPER and CITY agree as follows:

A. FINDINGS INCORPORATED

All of the foregoing recitals are hereby found to be true and correct, and they are hereby approved and incorporated into the body of this Agreement as if fully copied and restated in their entirety.

B. PROPERTY

This Agreement is for Property located in the City of McKinney, situated in an area that is generally located west of Hardin Boulevard, east of Lake Forest Drive (FM

1461) and on the north and south sides of Wilmeth Road (CR 943), Collin County, Texas, containing approximately 922.45 acres of land (the "Property").

As it relates more particularly to the DEVELOPER and the OWNERS, the lots that are the focus of this Agreement are the following twenty-four (24) single-family residential lots identified as "Floodplain Lots" throughout this Agreement which are located within the **PAINTED TREE** subdivision, previously defined as the "Subdivision," and identified by District, Phase, Block, and Lot as:

1. Lakeside West District, Phase 3 - Block O, Lot 13;
2. Woodland East District, Phase 1 - Block L, Lots 19 and 20;
3. Woodland East District, Phase 2 - Block Y, Lots 1, 2, 3, 4, 5, 6, 26, and 27;
4. Woodland West District, Phase 1A - Block A, Lot 3;
5. Woodland West District, Phase 1A - Block B, Lots 4, 5, and 6;
6. Woodland West District, Phase 1A – Block E, Lots 4, 5, and 6;
7. Woodland West District, Phase 1B - Block I, Lot 10;
8. Woodland West District, Phase 1B - Block J, Lot 12;
9. Woodland West District, Phase 2 - Block A, Lots 33, 34, and 40; and
10. Woodland West District, Phase 3 - Block D, Lot 18.

Each Phase within the Districts identified in the list above as being the location of one or more Floodplain Lots are hereinafter referred to singly and collectively as an "Impacted Phase." Each of the Floodplain Lots identified above is generally depicted in the LOMR-F Deferral Exhibit attached hereto as **Exhibit A**, which exhibit is also incorporated herein by reference for all purposes allowed by law.

C. SUBMITTAL OF REQUEST FOR AND RECEIPT OF LOMR-F FOR FLOODPLAIN LOTS

DEVELOPER and OWNERS are responsible for obtaining a Letter of Map Revision Based on Fill ("LOMR-F") for each of the Floodplain Lots from the Federal Emergency Management Association ("FEMA") before any grading and construction activities, other than the LOMR-F Activities, commence upon, under, over and across the Floodplain Lots and the related Impacted Phase, and any permit of any kind is issued for any development activity on any Floodplain Lots and the related Impacted Phase. The LOMR-F's shall be issued completed by FEMA and then received, evaluated and approved by the CITY, and the Applicable

Plat(s) for each such Impacted Phase amended or revised by DEVELOPER and OWNERS to accurately reflect FEMA's approval or disapproval of a LOMR-F for each of the Floodplain Lots within the Impacted Phase and the location of the floodplain upon and across or adjacent to the Floodplain Lots correctly identified on the Applicable Plat(s) as required by the Subdivision Regulations before any Floodplain Lots are sold within each such Impacted Phase.

D. SUBMITTAL OF REQUEST FOR AND RECEIPT OF LOMR REDEFINING THE FEMA FLOODWAY/FLOODPLAIN LOCATION

In addition, DEVELOPER and OWNERS are responsible for obtaining a Letter of Map Revision ("LOMR") from the Federal Emergency Management Association ("FEMA") for the Subdivision relocating the FEMA floodway/floodplain and revising the Applicable Plat(s) for any Floodplain Lots and Impacted Phase as required herein to conform to the Subdivision Regulations. The LOMR shall be issued by FEMA and then received, evaluated and approved by the CITY, and the Applicable Plat(s) for the Impacted Phase revised or amended by DEVELOPER and OWNERS to accurately reflect the location of the FEMA Zone AE floodplain upon and across or adjacent to the Floodplain Lots and the Subdivision as required by the Subdivision Regulations. In addition, the LOMR must be completed and accepted by CITY and the Applicable Plat(s) for the Impacted Phases revised to accurately reflect the location of the FEMA Zone AE floodplain upon and across or adjacent to the Floodplain Lots and the Subdivision as required by the Subdivision Regulations prior to a final green tag or a Certificate of Occupancy being issued for any lot within any Impacted Phase.

The LOMR must also update the FEMA floodplain at the dam to show the updated 100-year Zone AE floodplain on all of the Property including the area of the Property situated downstream of the dam.

D. CASH DEPOSIT

1. The DEVELOPER and OWNERS, in accordance with the requirements established by the Subdivision Regulations of the CITY and this Agreement, shall tender to the CITY a Cash Deposit in an amount equal to **FORTY-EIGHT THOUSAND AND ZERO/ONE HUNDREDTHS DOLLARS** (\$48,000.00), assuring completion and submission of a request to FEMA for consideration of a LOMR to change the location of the FEMA floodway/floodplain upon, over and across the Floodplain Lots subject to compliance with this Agreement and the Subdivision Regulations (the "LOMR Cash Deposit").
2. In addition, the DEVELOPER and OWNERS, in accordance with the requirements established by the Subdivision Regulations of the CITY and this Agreement, shall also tender to the CITY a Cash Deposit in an amount equal to **FORTY-EIGHT THOUSAND AND ZERO/ONE HUNDREDTHS**

DOLLARS (\$48,000.00), assuring the revision and or amendment of the Applicable Plat(s) for each Impacted Phase and the Subdivision is prepared, submitted and approved in full conformity with the Subdivision Regulations and recorded with Collin County to accurately reflect and incorporate FEMA's determination regarding the location of the FEMA floodway/floodplain upon and across or adjacent to each of the Floodplain Lots and the Subdivision (the "Plat Cash Deposit").

3. The amount of the Total Cash Deposit combining the LOMR Cash Deposit and the Plat Cash Deposit pursuant to this Agreement was computed as follows:
 - a. The total cost of developing the LOMR submittal as reflected in the contract between DEVELOPER and OWNERS and a third-party firm ("Consultant"), a copy of which contract is attached hereto as **Exhibit B** and fully incorporated herein by reference, (the "LOMR Contract") plus at least twenty percent (20%) of the LOMR Contract cost, such additional amount to cover unexpected or incidental costs of completion, including administrative expenses; and
 - b. The total cost of preparing and submitting and obtaining approval of the revisions and/or amendments to the Applicable Plat(s) as reflected in the contract between DEVELOPER and OWNERS and their Engineering and/or Surveying Consultant ("Platting Consultant"), a copy of which contract is attached hereto as **Exhibit D** and fully incorporated herein by reference, (the "Platting Contract") plus at least twenty percent (20%) of the Platting Contract cost, such additional amount to cover unexpected or incidental costs of completion, including administrative expenses..
4. The DEVELOPER and OWNERS shall be jointly liable to pay for, at no cost to CITY, the cost of developing and submitting the LOMR, and preparing and submitting and obtaining approval of the Applicable Plat(s) for each Impacted Phase of the Subdivision, including but not limited to, engineering, legal, administrative and contingent costs together with any damages, either direct or consequential, which the CITY may sustain as a result of the failure of the DEVELOPER and OWNERS to carry out and execute all of the provisions of this Agreement and the provisions of the Subdivision Regulations. The DEVELOPER and OWNERS further agree that the CITY, at its option, shall have the right to prepare a LOMR submittal and resulting Applicable Plat(s) or pursuant to public advertisement and receipt of bids or proposals, cause to be submitted such a request to FEMA for a LOMR and upon receipt and approval of such LOMR to cause the revisions and/or amendments to the Applicable Plat(s) to be prepared, submitted and corrected to obtain approval from the Planning and Zoning Commission and/or City Council in the event the DEVELOPER and OWNERS fail or

refuse to do so in accordance with the terms of this Agreement. The DEVELOPER and OWNERS shall be liable hereunder to reimburse the CITY the total cost to complete the LOMR submittal and the revisions and/or amendments to the Applicable Plat(s) plus such other and further costs and expenses enumerated in this Paragraph.

5. The balance of the LOMR Cash Deposit and the Plat Cash Deposit remaining, if any, after recording the revisions and/or amendments to the Applicable Plat(s) of each Impacted Phase accurately reflecting the location of the FEMA floodway/floodplain upon and across or adjacent to the Floodplain Lots shall be returned to DEVELOPER and OWNERS after the CITY has received the LOMR from FEMA and the revisions and/or amendments to the Applicable Plat(s) have been prepared and approved and recorded with Collin County. Should DEVELOPER and OWNERS default under the terms of this Agreement, and upon 30-days' notice from CITY to DEVELOPER and OWNERS of said default, CITY shall be entitled to retain the Cash Deposit in full. However, CITY shall not have a corresponding duty to complete performance of this Agreement or issue any plat approvals or permits or permit approvals for any development activities on and about the Impacted Phases.

E. ASSIGNMENT OF LOMR AND PLATTING CONTRACTS TO CITY

The LOMR Contract shall be assigned to CITY, as security only, by Consultant's execution hereafter of an assignment in the form attached hereto as **Exhibit C** that shall grant the CITY rights, but not obligations thereunder, to require the Consultant's performance under the LOMR Contract. Similarly, the Platting Contract shall be assigned to CITY, as security only, by Platting Consultant's execution hereafter of an assignment in the form attached hereto as **Exhibit E** that shall grant the CITY rights, but not obligations thereunder, to require the Platting Consultant's performance under the Platting Contract.

F. REVISED OR AMENDED PLATS REQUIRED

1. If FEMA issues a LOMR that modifies the Flood Insurance Rate Map ("FIRM") and thereby establishes that any of the "Floodplain Lots" are not situated within the FEMA Zone AE floodplain, the DEVELOPER and OWNERS shall within 45 days after the LOMR is received from FEMA and evaluated and approved by the CITY revise or amend the Applicable Plat(s) for so much of each of the Impacted Phases within which the Floodplain Lots are situated and/or Subdivision as may be required by the Subdivision Regulations to identify and accurately reflect the location of the FEMA Zone AE floodplain upon and across or adjacent to the Floodplain Lots, the Impacted Phases, and the Subdivision as required by the Subdivision Regulations in the following particulars:

- a. The Applicable Plat(s) for any Floodplain Lots in any Impacted Phase of the Subdivision that FEMA identifies by and through the LOMR as being situated in whole or in part within the FEMA floodway/floodplain shall be revised to accurately reflect the location of the FEMA floodway/floodplain upon and across or adjacent to the Floodplain Lots and place the negatively impacted areas of said Floodplain Lots in one or more drainage easements designated as No-Build Areas and placed in one or more common areas and conveyed to the homeowners' or property owners' association for the Impacted Phase in which said Floodplain Lots are situated by preparing, submitting and obtaining approval of the revisions and/or amendments to the Applicable Plat(s) for the Impacted Phase of the Subdivision in strict compliance with the Subdivision Regulations; and
- b. The Applicable Plat(s) for any Floodplain Lots in any Impacted Phase that FEMA identifies by and through the LOMR as being situated partially within and partially outside of the FEMA floodway/floodplain and which Floodplain Lots the CITY determines to be unbuildable shall be revised to accurately reflect the location of the revised FEMA floodway/floodplain and place the entirety of said Floodplain Lots in drainage easements designated as No-Build Areas and placed in one or more common areas and conveyed to the homeowners' or property owners' association for the Impacted Phase in which said Floodplain Lots are situated by preparing, submitting and obtaining approval of revisions and/or amendments to the Applicable Plat(s) for the Impacted Phase of the Subdivision in strict compliance with the Subdivision Regulations; and
- c. The Applicable Plat(s) for any Floodplain Lots in any Impacted Phase that FEMA identifies by and through the LOMR as being situated partially within and partially outside of the FEMA floodway/floodplain and that the CITY determines to be buildable shall be revised to accurately reflect the revised location of the FEMA floodway/floodplain upon and across or adjacent to the Floodplain Lots and place those areas that remain within the FEMA floodway/floodplain in an irrevocable perpetual drainage easement with such drainage easement being conveyed to the homeowners' or property owners' association for the Impacted Phase in which said Floodplain Lots are situated by preparing, submitting and obtaining approval of revisions and/or amendments to the Applicable Plat(s) for the Impacted Phase of the Subdivision in strict compliance with the Subdivision Regulations; and
- d. The Applicable Plat(s) for any Floodplain Lots in any Impacted Phase that FEMA identifies by and through the LOMR as being situated entirely outside the FEMA floodway/floodplain shall be revised to

accurately reflect the revised location of the FEMA floodway/floodplain adjacent to the Floodplain Lots by preparing, submitting and obtaining approval of revisions and/or amendments to the Applicable Plat(s) for the Impacted Phase of the Subdivision in strict compliance with the Subdivision Regulations; and

2. If FEMA declines to issue a LOMR in response to the request submitted by DEVELOPER and OWNERS for a LOMR seeking to modify the FIRM, the DEVELOPER and the OWNERS shall be obligated to revise the Applicable Plat(s) for each of the Impacted Phases and the Floodplain Lots within each of the Impacted Phases within 45 days after FEMA declines to issue a LOMR to accurately reflect the location of the FEMA floodway/floodplain upon and across or adjacent to the Floodplain Lots and shall also place each of the Floodplain Lots in drainage easements designated as No-Build Areas and placed in one or more common areas and conveyed to the homeowners' or property owners' association for the Impacted Phase in which said Floodplain Lots are situated in strict compliance with the Subdivision Regulation.
3. FEMA's issuance or non-issuance of a LOMR and any modification of the FIRM and the CITY's approval of the Applicable Plat(s) of the Property or the Impacted Phases and the Floodplain Lots situated within said Impacted Phases of the Subdivision does NOT alter and shall NOT be interpreted as altering or removing the Property and the Floodplain Lots from the CCSWCD Easement granted by OWNERS' predecessors-in-interest to the Collin County Soil and Water Conservation District and shall NOT supersede the limitations and restrictions imposed on construction within a drainage easement set out in the Subdivision Regulations or the obligation to identify the location of the CCSWCD Easement on the plat and replat of the Property or the Impacted Phases and the Floodplain Lots. The Subdivision Regulations require all plats and replats of the Property or the Impacted Phases and the Floodplain Lots to accurately depict the location of all drainage easements upon and across and adjacent to the land being platted or replatted.

G. CITY DEVELOPMENT ORDINANCES

DEVELOPER and OWNERS shall, save and except as expressly provided herein to the contrary, develop the PROPERTY in accordance with the standards as set forth in City of McKinney zoning, subdivision and land development ordinances, including but not limited to provisions as to drainage, erosion control, pro rata payments, storm water, tree preservation, park land dedication, hike and bike trails, impact fees, Street Design Standards, Public Improvements Policy and construction standards.

H. NO WAIVER

DEVELOPER and OWNERS expressly acknowledge that by entering into this Agreement, DEVELOPER and OWNERS, and their respective successors, assigns, vendors, grantees, and/or trustees, shall not construe any language contained herein or in any Exhibits as waiving any of the requirements of the Zoning Ordinance or Subdivision Regulations or any other ordinance of the CITY except as herein specifically agreed.

I. VARIANCES

It is expressly acknowledged that only those variances to the Zoning Ordinance and Subdivision Regulations or other applicable CITY ordinances stipulated in attached **Exhibit F**, if any, are granted by CITY for this subdivision and/or development. If no variances are granted, **Exhibit F** shall state "No variances for this Property are granted and none shall be allowed."

J. INDEMNITY AND HOLD HARMLESS AGREEMENT

DEVELOPER and OWNERS, and their respective successors, assigns, vendors, grantees, and/or trustees do hereby agree to fully indemnify, protect and hold CITY harmless from all third-party claims, suits, judgments, and demands, including its reasonable attorney's fees, arising out of the sole or concurrent negligence of DEVELOPER and OWNERS, and only to the extent or percentage attributable to DEVELOPER and OWNERS, in the subdividing, development, or construction of public improvements, including the negligent maintenance thereof. DEVELOPER and OWNERS shall not be responsible for or be required to indemnify CITY from CITY'S own negligence. The indemnity contained in this Paragraph shall expire five (5) years from the date of final acceptance of each phase of the improvements.

K. REVOCAION

In the event DEVELOPER and OWNERS fail to comply with any of the provisions of this Agreement, CITY shall be authorized to revoke any and all Certificates of Occupancy that may have been previously issued in relation to the subdivision and/or development of Property; and CITY shall be further authorized to file this instrument in the records of Collin County as a Mechanic's Lien against DEVELOPER'S and OWNERS' property; and in the alternative, CITY shall be authorized to levy an assessment against DEVELOPER'S and OWNERS' property for public improvements to be held as a tax lien against the Property by CITY.

L. ROUGH PROPORTIONALITY AND WAIVER OF CLAIMS.

DEVELOPER has been represented by legal counsel in the negotiation of this Agreement and been advised or has had the opportunity to have legal counsel review this Agreement and advise DEVELOPER, regarding DEVELOPER's rights under Texas and federal law. DEVELOPER hereby waives any requirement that the CITY retain a professional engineer, licensed pursuant to Chapter 1001 of the Texas Occupations Code, to review and determine that the exactions required by the CITY as a condition of approval for the development of this Property are roughly proportional or roughly proportionate to the proposed development's anticipated impact. (These exactions may include but are not limited to the making of dedications or reservations of land, the payment of fees, the construction of facilities, and the payment of construction costs for public facilities.) DEVELOPER specifically reserves its right to appeal the apportionment of municipal infrastructure costs in accordance with Tex. Loc. Gov't Code § 212.904. However, notwithstanding the foregoing, Developer hereby releases the CITY from any and all liability under Tex. Loc. Gov't Code § 212.904 regarding or related to the cost of those municipal infrastructure improvements required for the development of the Property.

It is the intent of this Agreement that the provision for roadway and utility improvements made herein constitutes a proportional allocation of DEVELOPER's responsibility for roadway and utility improvements for the Property. DEVELOPER hereby waives any federal constitutional claims and any statutory or state constitutional takings claims under the Texas Constitution and Chapter 395 of the Tex. Loc. Gov't. Code. DEVELOPER further releases CITY from any and all claims based on excessive or illegal exactions; it being agreed that OWNERS' infrastructure contribution(s) (after receiving all contractual offsets, credits and reimbursements) is roughly proportional or roughly proportionate to the demand that is placed on the roadway and utility systems by DEVELOPER's Property. DEVELOPER further acknowledges that the benefits of zoning and platting have been accepted with full knowledge of potential claims and causes of action which may be raised now and in the future, and DEVELOPER acknowledges the receipt of good and valuable consideration for the release and waiver of such claims. **DEVELOPER shall indemnify and hold harmless CITY from any claims and suits of third parties, including but not limited to DEVELOPER's successors, assigns, grantees, vendors, trustees or representatives, brought pursuant to this Agreement or the claims or types of claims described in this paragraph.**

M. CONTINUITY

This Agreement shall be a covenant running with the land, and be binding upon DEVELOPER and OWNERS, and their respective successors, heirs, assigns, grantees, vendors, trustees, representatives, and all others holding any interest now or in the future.

N. ASSIGNABILITY

This Agreement shall not be assignable by DEVELOPER and OWNERS without the prior written consent of the CITY, and such consent shall not be unreasonably withheld, conditioned or delayed.

O. TERMINATION AND RELEASE

Upon satisfactory completion by DEVELOPER and OWNERS and final acceptance by CITY of all requirements of this Agreement, this Agreement shall terminate and CITY will execute a release of covenant to DEVELOPER and OWNERS, and their respective heirs, successors, assigns, grantees, vendors, trustees, representatives, and all others holding any interest now or in the future. This Agreement shall not terminate until the requirements of all parties have been fulfilled.

P. INTENTIONALLY OMITTED

Q. GENERAL PROVISIONS

1. DEVELOPER and OWNERS hereby relieve CITY of any responsibilities for any inadequacies in the preliminary plans, exhibits and cost estimate(s) supplied for the purpose of this Agreement, and further agree that DEVELOPER and OWNERS will comply with CITY'S Subdivision Regulations, Street Design Standards, Engineering Design Manual, Public Improvements Policy and any other applicable policies, rules, regulations and ordinances of CITY regarding development of the Property.
2. DEVELOPER and OWNERS agree that all coordination required with public and/or private utility agencies to eliminate conflicts with proposed street grades or underground improvements shall be the responsibility of DEVELOPER and OWNERS. Likewise, coordination with agencies requiring special conditions (i.e., railroads and the Texas Department of Transportation) shall be the responsibility of DEVELOPER and OWNERS.
3. DEVELOPER and OWNERS agree that the request for a LOMR shall be submitted to FEMA within ninety (90) days from the date of approval of this Agreement by the McKinney City Council.
4. CITY agrees to approve the Applicable Plat(s) for the Property at such time as the Applicable Plat(s) comply with the requirements set forth by the Subdivision Regulations of CITY save and except the requirement to identify the location of the FEMA floodway/floodplain upon, over, across and adjacent to the Floodplain Lots, and the Applicable Plat(s) has been approved in the manner described therein.

R. CONFLICT OF INTEREST

DEVELOPER and OWNERS covenant and agree that DEVELOPER and OWNERS and their respective associates and employees will have no interest, and will acquire no interest, either direct or indirect, which will conflict in any manner with the performance of the services called for under this Agreement. All activities, investigations and other efforts made by DEVELOPER and OWNERS pursuant to this Contract will be conducted by employees, associates or subcontractors of DEVELOPER and OWNERS.

In addition, to the extent that this Agreement (a) must be approved by the CITY's governing body before it may be signed or (b) has a value of \$1,000,000, or more, DEVELOPER and OWNERS shall comply with the requirements of Texas Government Code § 2252.908 by completing and submitting Form 1295 to the Texas Ethics Commission ("Commission") at the time DEVELOPER and OWNERS submit this signed Agreement to CITY, and as follows:

Form 1295 Filing Process: The Commission has made available on its website a new filing application that must be used to file Form 1295. The DEVELOPER and OWNERS must use the application to enter the required information on Form 1295 and print a copy of the completed form, which will include a certification of filing that will contain a unique certification number. An authorized agent of the DEVELOPER and OWNERS must sign the printed copy of the form and complete the "unsworn declaration" which includes, among other things, the date of birth and address of the authorized representative signing the form. The completed Form 1295 with the certification of filing must be filed with the CITY.

The CITY must notify the Commission, using the Commission's filing application, of the receipt of the filed Form 1295 with the certification of filing not later than the 30th day after the date the Contract binds all parties to the Contract. The Commission will post the completed Form 1295 to its website within seven business days after receiving notice from the CITY.

Form 1295 Availability: Certificate of Interested Parties Form is available from the Texas Ethics Commission website at the following address:

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

For questions regarding and assistance in filling out Form 1295, please contact the Texas Ethics Commission at 512-463-5800.

S. ANTI-BOYCOTTING AND ANTI-DISCRIMINATION

1. Prohibition on Contracts with Companies Boycotting Israel. In accordance with Chapter 2271, Texas Government Code, a Texas governmental entity may not enter into an agreement with a company for the provision of goods

or services unless the agreement contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the agreement.

Chapter 2271 does not apply to: (1) a company that is a sole proprietorship; (2) a company that has fewer than ten (10) full-time employees; or (3) a contract that has a value of less than One Hundred Thousand Dollars (\$100,000.00). Unless the DEVELOPER and OWNERS are not subject to Chapter 2271 for the reasons stated herein, the signatory(ies) executing this Agreement on behalf of each of the DEVELOPER and OWNERS verifies by its signature on this Agreement that the DEVELOPER and OWNERS do not boycott Israel and will not boycott Israel during the term of this Agreement.

2. Prohibition on Contracts with Companies Boycotting Energy Companies. In accordance with Chapter 2276, Texas Government Code, a Texas governmental entity may not enter into a contract with a company for the provision of goods or services unless the contract contains a written verification from the company that it: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract.

Chapter 2276 does not apply to: (1) a company that has fewer than ten (10) full-time employees; or (2) a contract that has a value of less than One Hundred Thousand Dollars (\$100,000.00). Unless the DEVELOPER and OWNERS are not subject to Chapter 2276 for the reasons stated herein, the signatory(ies) executing this Agreement on behalf of each of the DEVELOPER and OWNERS verifies by its signature on this Agreement that the DEVELOPER and OWNERS do not boycott energy companies and will not boycott energy companies during the term of this Agreement.

3. Prohibition on Contracts with Companies Boycotting any Firearm Entity or Firearm Trade Association. In accordance with Chapter 2274, Texas Government Code, a Texas governmental entity may not enter into a contract with a company for the provision of goods or services unless the contract contains a written verification from the company that it: (1) does not have a practice, policy, guidance, or directive that discriminates against any firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against any firearm entity or firearm trade association.

Chapter 2274 does not apply to: (1) a company that has fewer than ten (10) full-time employees; or (2) a contract that has a value of less than One Hundred Thousand Dollars (\$100,000.00). In addition, this provision does not apply to: (1) a contract with a sole-source provider; or (2) a contract for which the governmental entity did not receive any bids from a company that

is able to provide the required written verification. Unless the DEVELOPER and OWNERS are not subject to Chapter 2274 for the reasons stated herein, the signatory(ies) executing this Agreement on behalf of each of the DEVELOPER and OWNERS verifies by its signature on this Agreement that the DEVELOPER and OWNERS do not boycott any firearm entity or firearm trade association and will not boycott any firearm entity or firearm trade association during the term of this Agreement.

CITY OF MCKINNEY

By: _____
PAUL G. GRIMES
City Manager

Date Signed: _____

ATTEST:

EMPRESS DRANE
City Secretary
TENITRUS BETHEL
Deputy City Secretary

JEN TEXAS 22 LLC,
a Texas limited liability company

By: 
MICHAEL W. BRADY
Vice President

AGREED TO BY:

GRBK EDGEWOOD LLC,
a Texas limited liability company

By: 
BOBBY SAMUEL
Vice President

TSHH, LLC

By: 
CHRIS WICKER
VP of Finance and Operations

DREES CUSTOM HOMES, L.P.,
a Texas limited partnership

By Drees Builders, Inc., an Ohio
corporation, its general partner

By: 
ERIK NORGELLO
Ass't Secretary/Dallas Land

BLOOMFIELD HOMES, L.P.,
a Texas limited partnership

By and through its General Partner
BLOOMFIELD PROPERTIES, INC.,
a Texas Corporation

By: 
CLINT VINCENT
Attorney-in-Fact

CYRENE AT PAINTED TREE LLC,
a Texas limited liability company

By: 

NATE PILE
President

**CYRENE AT PAINTED TREE ONE
LLC,** a Texas limited liability company

By: 

NATE PILE
President

THE STATE OF TEXAS,
COUNTY OF COLLIN

BEFORE ME, the undersigned authority, in and for said County, Texas, on this day personally appeared PAUL G. GRIMES, City Manager of the **CITY OF MCKINNEY**, a Texas Municipal Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he has executed the same on the City's behalf.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE _____
DAY OF _____, 2024.

Notary Public _____ County, Texas
My commission expires _____

THE STATE OF TEXAS,
COUNTY OF Collin

This instrument was acknowledged before me on the 12 day of November, 2024, by MICHAEL W. BRADY, in his capacity as Vice President of **JEN TEXAS 22 LLC**, a Texas limited liability company, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that MICHAEL W. BRADY is the Vice President of **JEN TEXAS 22 LLC**, a Texas limited liability company, and that he executed the same on behalf of and as the act of the limited liability company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 12
DAY OF November, 2024.

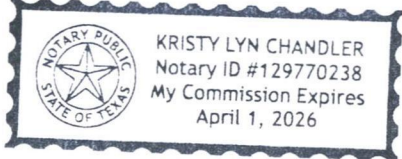


Faith Nicole Sourber
Notary Public Collin County, Texas
My commission expires 8/11/2025

THE STATE OF TEXAS,
COUNTY OF Collin

This instrument was acknowledged before me on the 13 day of November, 2024, by BOBBY SAMUEL, in his capacity as Vice President of **GRBK EDGEWOOD LLC**, a Texas limited liability company, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that BOBBY SAMUEL is the Vice President of **GRBK EDGEWOOD LLC**, a Texas limited liability company, and that he executed the same on behalf of and as the act of the limited liability company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 13
DAY OF November, 2024.

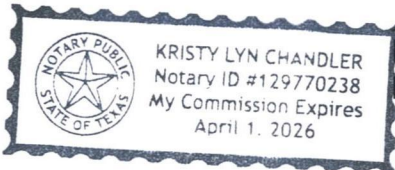


Kristy Lyn Chandler
Notary Public Collin County, Texas
My commission expires April 1, 2026

THE STATE OF TEXAS,
COUNTY OF Collin

This instrument was acknowledged before me on the 13 day of November, 2024, by CHRIS WICKER, in his capacity as Vice President of Finance and Operations of **TSHH, LLC**, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that CHRIS WICKER is the Vice President of Finance and Operations of **TSHH, LLC**, and that he executed the same on behalf of and as the act of the limited liability company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 13
DAY OF November, 2024.



Kristy Lyn Chandler
Notary Public Collin County, Texas
My commission expires April 1, 2026

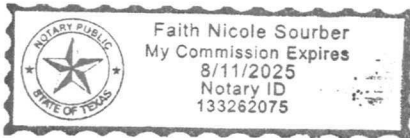
THE STATE OF TEXAS,
COUNTY OF Collin

This instrument was acknowledged before me on the 12 day of November, 2024, by ERIK NORGELLO, in his capacity as Ass't Secretary/Dallas Land of **DREES CUSTOM HOMES, L.P.**, a Texas limited partnership, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that ERIK NORGELLO is the Ass't Secretary/Dallas Land of **DREES CUSTOM HOMES, L.P.**, a Texas limited partnership, and that he executed the same on behalf of and as the act of the limited partnership.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 12 DAY OF November, 2024.

Faith A

Notary Public Collin County, Texas
My commission expires 8/11/2025



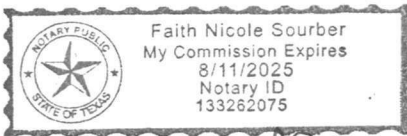
THE STATE OF TEXAS,
COUNTY OF Collin

This instrument was acknowledged before me on the 12 day of November, 2024, by CLINT VINCENT, in his capacity as Vice President of **BLOOMFIELD HOMES, L.P.**, a Texas limited partnership, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that CLINT VINCENT is the Attorney-in-Fact of **BLOOMFIELD HOMES, L.P.**, a Texas limited partnership, and that he executed the same on behalf of and as the act of the limited liability company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 12 DAY OF November, 2024.

Faith A

Notary Public Collin County, Texas
My commission expires 8/11/2025



ARIZONA

THE STATE OF TEXAS,
COUNTY OF Maricopa

This instrument was acknowledged before me on the 11th day of November, 2024, by NATE PILE, in his capacity as President of **CYRENE AT PAINTED TREE LLC**, a Texas limited liability company, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that NATE PILE is the

President of **CYRENE AT PAINTED TREE LLC**, a Texas limited liability company, and that he executed the same on behalf of and as the act of the limited liability company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 11th
DAY OF November, 2024.



Jennifer Mackenzie
Notary Public Maricopa County, ~~Texas~~ ARIZONA
My commission expires August 13, 2028

THE STATE OF ~~TEXAS~~, ARIZONA
COUNTY OF Maricopa

This instrument was acknowledged before me on the 11th day of November, 2024, by NATE PILE, in his capacity as President of **CYRENE AT PAINTED TREE ONE LLC**, a Texas limited liability company, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that NATE PILE is the President of **CYRENE AT PAINTED TREE ONE LLC**, a Texas limited liability company, and that he executed the same on behalf of and as the act of the limited liability company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 11th
DAY OF November, 2024.

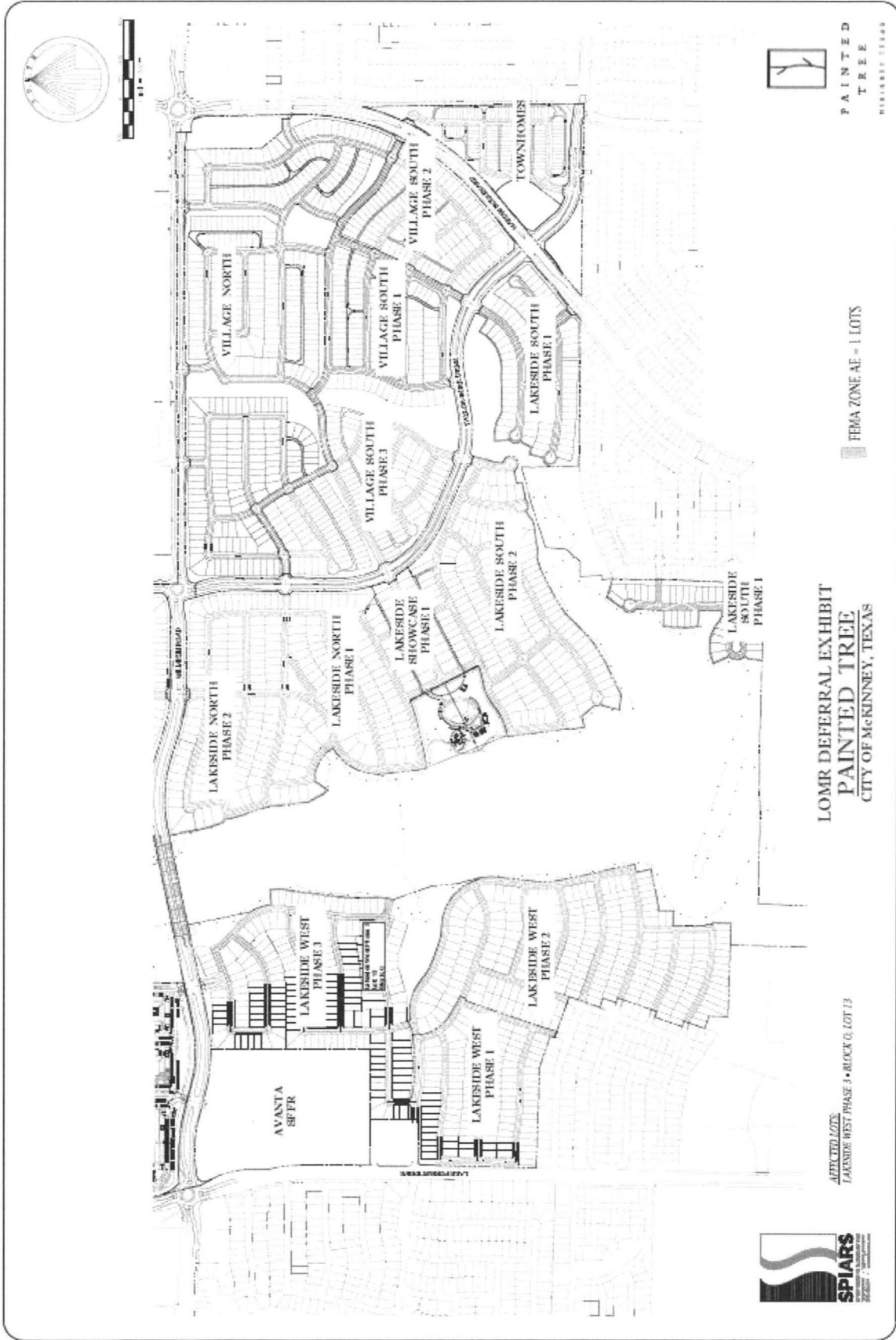


Jennifer Mackenzie
Notary Public Maricopa County, ~~Texas~~ ARIZONA
My commission expires August 13, 2028

EXHIBIT A

LOMR-F DEFERRAL EXHIBIT

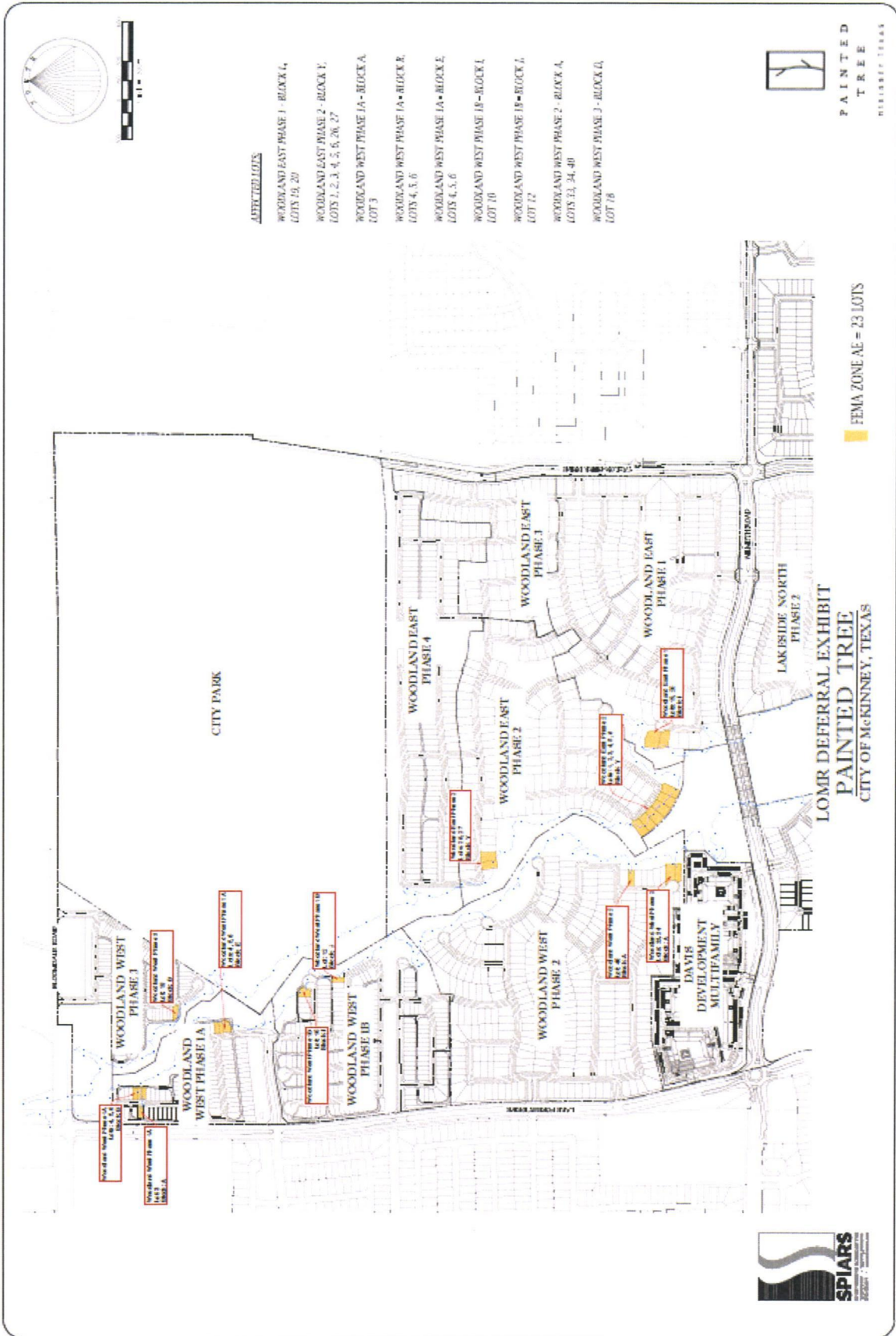
(See following two (2) pages.)



LOMR DEFERRAL EXHIBIT
PAINTED TREE
 CITY OF MC KINNEY, TEXAS

AFFECTED LOTS
 LAKESIDE WEST PHASE 1 - BLOCK 0, LOT 13





- ABSTRACTED LOTS**
- WOODLAND EAST PHASE 1 - BLOCK G, LOTS 19, 20
 - WOODLAND EAST PHASE 2 - BLOCK V, LOTS 1, 2, 3, 4, 5, 26, 27
 - WOODLAND WEST PHASE 1A - BLOCK A, LOT 3
 - WOODLAND WEST PHASE 1A - BLOCK R, LOTS 4, 5, 6
 - WOODLAND WEST PHASE 1A - BLOCK E, LOTS 4, 5, 6
 - WOODLAND WEST PHASE 1B - BLOCK I, LOT 10
 - WOODLAND WEST PHASE 1B - BLOCK J, LOT 12
 - WOODLAND WEST PHASE 2 - BLOCK A, LOTS 13, 34, 40
 - WOODLAND WEST PHASE 3 - BLOCK D, LOT 18

EXHIBIT B

LOMR CONTRACT

JEN Texas
Attn: Tom Woliver
208 S. Johnson St
McKinney, TX 75069

Re: FEMA LOMR–Franklin Branch and Tributaries
Project Name – Painted Tree Development, McKinney, TX

Dear Mr. Woliver:

Cardinal Strategies Engineering Services, LLC (“Cardinal”) received a request for proposal from you on May 10, 2022 to prepare a FEMA LOMR submittal for the Painted Tree Development project along Franklin Branch and Tributaries in McKinney, TX.

The site is an 1,100-acre undeveloped tract in McKinney, TX with an SCS Pond (Site#4) along Franklin Branch. The site is approximately located north of US380, east of Lake Forest Drive, south of Bloomdale Road, and west of North Hardin Blvd. Franklin Branch flows from north to south through the middle of the site and into the SCS Reservoir at the southern (downstream) end of the site. There are approximately 10 tributaries that converge with Franklin Branch that flow through the site. All the tributaries are unmapped through FEMA while Franklin Branch is mapped as a Zone A stream.

As part of the City of McKinney requirements for a floodplain development permit, the Zone A stream will need to be coordinated with FEMA to reflect a Zone AE stream after construction. This involves identifying a 500-yr storm event and additional mapping beyond the 100-yr storm event.

Based on the information available for the site, Cardinal has developed the following scope of services and a cost estimate for the Painted Tree Development FEMA LOMR on Franklin Branch and Tributaries.

Additional Services #1 –FEMA Letter of Map Revision (LOMR)

After construction of all phases along Franklin Branch.

1. Adjust Flood Study reporting to only highlight FEMA streams and standards.
2. Duplicate Effective and Pre-Project hydraulic models (multi-profile) in FEMA format.
3. As-built hydraulic models (multi-profile) in FEMA format.
4. MT-2 Form Preparation
5. Attachments – Hydraulic Workmaps, Annotated FIRM, as-built survey exhibit
6. Digital data preparation
7. Draft property owner notification letter and/or draft newspaper notification
8. Coordination with FEMA review team to provide any additional data requested or to address any comments provided.

Data requirements to be provided by others to complete the Phase 5 include:

- As-Built topographic survey data (NAD83 CAD and PDF format) - JEN Texas

Deliverable - Cardinal will provide a digital copy of the Report to the City of McKinney for review. Once approved by the City of McKinney, Cardinal will submit online to FEMA.

NOTE: *As of the date of this proposal, FEMA requires a processing fee, currently \$8,000, to review LOMRs based on a “project.” This fee is included in the Cardinal fee below.*

Fees

The cost estimate to develop the FEMA LOMR for the Painted Tree Development project is shown below.

Phase	Cost
Additional Services #1 – FEMA LOMR	\$40,000

The Cardinal cost estimate does not include the following items:

1. Field Surveys
2. Environmental permitting
3. Coordination with any entities other than City of McKinney and FEMA
4. Updates to the flood study or any additional coordination with McKinney due to changes to the site or grading plan that may involve reclamation evaluations
5. Development of a FEMA CLOMR submittal
6. Dam Breach Analysis

It is assumed that JEN Texas will provide all field survey data to develop the FEMA LOMR along Franklin Branch and Tributaries for the subject development.

This cost proposal includes responding to review comments from the City of McKinney regarding the FEMA LOMR that fall within the scope of work as described above.

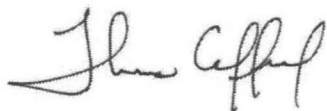
In the event that there are review comments from the City of McKinney or that fall outside the scope or work, Cardinal will bill JEN Texas at \$200 an hour to respond to those comments and the actual cost with a 5% mark up for the Preliminary Flood Study package reproduction and delivery costs.

In the event additional scope is requested by JEN Texas and a proposal is not requested, Cardinal will invoice JEN Texas at a rate of \$200/hour for additional scope items and the actual cost with a 5% mark up for reproduction and delivery direct costs.

Cardinal will invoice JEN Texas monthly based on percent completion.

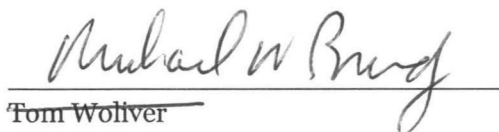
Thank you for the opportunity to provide these important services to you. We are looking forward to working with you on the successful completion of the scope of services to support FEMA LOMR for Painted Tree Development in McKinney, TX. Please do not hesitate to contact me at (817) 721-6405 to discuss any questions you may have. We can also arrange for a meeting, if needed, to go through this proposal in more detail prior to agreeing to move forward on the project.

Sincerely,



Thomas Caffarel, PE, CFM
Principal, Engineering Services Manager
Cardinal Strategies Engineering Services, LLC
TBPE Firm Registration No. F-11976

Acceptance of Additional Services #1 of this Proposal:



Tom Woliver
JEN Texas
208 S. Johnson St
McKinney, TX 75069

1-7-25
Date

EXHIBIT C

ASSIGNMENT OF FEMA LOMR CONTRACT

THE STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF COLLIN

THIS ASSIGNMENT OF FEMA LOMR CONTRACT (this "Assignment") is made as of the _____ day of _____, 20____, by **JEN TEXAS 22, LLC**, a Texas limited liability company, whose address is 280 S. Johnson Street, Suite 101, McKinney, Texas 75069 ("Owner") to the **CITY OF MCKINNEY**, a Texas municipal corporation ("City").

RECITALS

- A. On or about _____, 202____ City entered into a Construction Facilities Agreement with **JEN TEXAS 22, LLC**, ("Developer") (the "Agreement") through which the Developer is seeking to obtain a Letter of Map Revision Based on Fill ("LOMR-F") for each of twenty-four (24) "Floodplain Lots" in the Painted Tree Subdivision that are identified in the Agreement from the Federal Emergency Management Association ("FEMA").
- B. The Agreement also requires the Developer to obtain from the Federal Emergency Management Association ("FEMA") a Letter of Map Revision (a "FEMA LOMR") for the relocation of the FEMA floodway/floodplain accurately reflecting the location of the FEMA Zone AE floodplain upon and across the twenty-four (24) "Floodplain Lots" to conform to the City's Subdivision Regulations.
- C. Owner has entered into a professional services contract to develop and obtain approval of the FEMA LOMR for the Painted Tree Subdivision with **CARDINAL STRATEGIES ENGINEERING SERVICES LLC** following receipt of FEMA's responses regarding each of the requested LOMR-F's for all of the twenty-four (24) "Floodplain Lots" as required by the Facilities Agreement with **JEN TEXAS 22, LLC** (the "FEMA LOMR Contract").
- D. Owner has agreed to deposit with City cash in the amount of Forty-Eight Thousand and No/100 Dollars (\$48,000.00) representing one hundred twenty percent (120%) of the estimated cost for the completion of the FEMA LOMR process under the Facilities Agreement (the "Cash Deposit"), and have agreed to conditionally assign to City the Owner's rights under the FEMA LOMR Contract.
- E. As a condition to its agreements under the Construction Facilities Agreement, City has required the execution and delivery of this Assignment by Owner.

NOW, THEREFORE, in order to further secure the obligations of Owner under the Facilities Agreement, the parties hereby agree as follows:

1. Deposit of Cash. Owner agrees to tender the Cash Deposit to City upon the execution of this Assignment in the amount of Forty-Eight Thousand and No/100 Dollars (\$48,000.00).
2. Assignment of FEMA LOMR Contract. As additional security for the performance of Owner's obligations under the Facilities Agreement, Owner hereby transfers and assigns to City and grants City a security interest in all of Owner's rights and interest, but not its obligations in, under, and to the FEMA LOMR Contract upon the following terms and conditions:

Owner represents and warrants that the copies of any FEMA LOMR Contract it has furnished or will furnish to City are a true and complete copy thereof and that Owner's interest therein is not subject to any claim, setoff, or encumbrance.

Neither this Assignment nor any action by City shall constitute an assumption by City of any obligation under the FEMA LOMR Contract, and Owner shall continue to be liable for all obligations of Owner thereunder, Owner hereby agrees to perform all of its obligations under the FEMA LOMR Contract. Owner further agrees to indemnify and hold City harmless against and from any loss, cost, liability or expense (including but not limited to attorneys' fees and expenses) resulting from any failure of Owner to so perform.

City shall have the right at any time (but shall have no obligation) to take in its name or in the name of Owner such action as City may at any time determine to be necessary or advisable to cure any default under the FEMA LOMR Contract or to protect the rights of Owner or City thereunder. City shall incur no liability if any action so taken by it or in its behalf shall prove to be inadequate or invalid, and Owner agrees to hold City free and harmless against and from any loss, cost, liability or expense (including but not limited to attorneys' fees and expenses) incurred in connection with any such action.

Owner hereby constitutes and appoints City as Owner's attorney-in-fact, in Owner's name or in City's name to enforce all rights of Owner under the FEMA LOMR Contract.

Prior to the occurrence of a default, Owner shall have the right to exercise its rights as owner under the FEMA LOMR Contract provided that Owner shall not cancel or amend the FEMA LOMR Contract or do or suffer to be done any act which would impair the security constituted by this Assignment without the prior written consent of City.

3. Termination of Assignment. Upon completion of the Letter of Map Revision for the relocation of the FEMA floodway/floodplain accurately reflecting the location of the

FEMA Zone AE floodplain upon and across the twenty-four (24) "Floodplain Lots" to conform to the City's Subdivision Regulations required by the Facilities Agreement and acceptance thereof by City, this Assignment shall terminate. City shall return the Cash Deposit to Owner within ten (10) days of the termination of this Assignment.

4. Representations of Owner. Owner covenants and represents to City that (i) Owner has full right, title, power, and authority to assign the FEMA LOMR Contract; (ii) no other assignment or interest therein has been made; and (iii) there are no existing defaults under the provisions of the FEMA LOMR Contract.
5. Successors and Assigns. This Assignment shall inure to the benefit of Owner and City and shall be binding upon such successors and assigns.

IN WITNESS WHEREOF, the parties have executed this instrument as of the day and year first written above.

OWNER:

JEN TEXAS 22, LLC, a Texas limited liability company

By: 
MICHAEL W. BRADY
Vice President

Date Signed: 1-7-25

ACCEPTED AND AGREED:

CITY OF MCKINNEY


By _____
PAUL G. GRIMES
City Manager

Date Signed: _____

ATTEST:

EMPRESS DRANE
City Secretary
TENITRUS BETHEL
Deputy City Secretary

CARDINAL STRATEGIES
ENGINEERING SERVICES LLC, a Texas
limited liability company

By: 
THOMAS CAFFAREL
Principal, Engineering Services
Manager

Date Signed: 1-8-2025

PREPARED IN THE OFFICES OF:

BROWN & HOFMEISTER, L.L.P.
740 E. Campbell Road, Suite 800
Richardson, Texas 75081
214/747-6100
214/747-6111 Fax

EXHIBIT D

PLATTING CONTRACT



October 25, 2024

JEN Texas

Tom Woliver
1401 Lake Plaza Drive
Spring, Texas 77389

**RE: Painted Tree LOMR – Amended Plats
McKinney, Texas
SEI No.: 24-296**

Dear Mr. Woliver:

Spiars Engineering, Inc. appreciates the opportunity to submit herewith a proposal to provide civil engineering services for the amending of multiple plats for phases in the Painted Tree development in McKinney, Texas. The scope of services shall include the following:

SCOPE

A. Amended Plats – 24 Lots

1. Prepare Amended Plats for lots listed below to show that the FEMA 100YR has been revised and is no longer within the lot boundary.
 - a. Lakeside West Phase 3 – Block O, Lot 13
 - b. Woodland East Phase 1 - Block L, Lots 19 and 20
 - c. Woodland East Phase 2 - Block Y, Lots 1, 2, 3, 4, 5, 6, 26, and 27
 - d. Woodland West Phase 1A - Block A, Lot 3
 - e. Woodland West Phase 1A - Block B, Lots 4, 5, and 6
 - f. Woodland West Phase 1A – Block E, Lots 4, 5, and 6
 - g. Woodland West Phase 1B - Block I, Lot 10
 - h. Woodland West Phase 1B - Block J, Lot 12
 - i. Woodland West Phase 2 - Block A, Lots 33, 34, and 40
 - j. Woodland West Phase 3 - Block D, Lot 18.
2. Submit Amended Plats and coordinate approval and filing with the City of McKinney.

Reimbursable Expenditures: Reimbursable Expenditures (printing, deliveries, CAD plots, travel, etc....) will be invoiced at 1.15 times our cost. Invoices shall be submitted monthly for work completed to date or on a milestone basis and shall be due within 30 days of the date on the invoice.

Additional Services: Additional services will be performed on an hourly basis at the current hourly rates unless otherwise specified. Should the client desire to change the scope of this contract, Spiars Engineering, Inc. will prepare an amendment detailing changes in scope and fee for consideration by Client.

Exclusions: This proposal specifically excludes Corp of Engineer studies or submittals, landscape and irrigation plans, retaining/structural and screening wall plans, lift station design, TCEQ Notice of Intent, Storm Water Pollution Prevention Plan, ALTA survey, tree survey, environmental study, WOUS determination, Illumination Study, geotechnical investigation, soils testing, Flood Study, LOMR/CLOMR, TxDOT Permit, Construction Management, and a Traffic Impact Analysis (TIA). Any services not specifically addressed in this proposal shall not be performed without written or verbal authorization from the Client or Client's representative.

FEE SCHEDULE

We propose to provide the herein-described services for the following fees:

A. Amended Plats – 24 Lots (\$2,000/Lot)	\$ 48,000.00
TOTAL	\$ 48,000.00

The return of an executed copy of this agreement will serve as your acceptance and our authorization to commence work. We appreciate the opportunity to submit this proposal. Please feel free to call if you have any questions.

Sincerely,



Tristan Poore

Tristan R. Poore, P.E.

Accepted:

Michael W Brudg

Printed Name:

Title:

VP
JEN TEXAS 22, LLC

Name of Company:

Date:

1-7-25

EXHIBIT E

ASSIGNMENT OF PLATTING CONTRACT

EXHIBIT E

ASSIGNMENT OF PLATTING CONTRACT

THE STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF COLLIN

THIS ASSIGNMENT OF PLATTING CONTRACT (this "Assignment") is made as of the _____ day of _____, 20____, by **JEN TEXAS 22, LLC**, a Texas limited liability company, whose address is 280 S. Johnson Street, Suite 101, McKinney, Texas 75069 ("Owner") to the **CITY OF McKINNEY**, a Texas municipal corporation ("City").

RECITALS

- A. On or about _____, 202____ City entered into a Construction Facilities Agreement with **JEN TEXAS 22, LLC**, ("Developer") (the "Agreement") through which the Developer is seeking to obtain a Letter of Map Revision Based on Fill ("LOMR-F") for each of twenty-four (24) "Floodplain Lots" in the Painted Tree Subdivision that are identified in the Agreement from the Federal Emergency Management Association ("FEMA").
- B. The Agreement also requires the Developer to obtain from the Federal Emergency Management Association ("FEMA") a Letter of Map Revision (a "FEMA LOMR") for the relocation of the FEMA floodway/floodplain accurately reflecting the location of the FEMA Zone AE floodplain upon and across the twenty-four (24) "Floodplain Lots" to conform to the City's Subdivision Regulations.
- C. Further, the Agreement requires the Developer to amend the plats or submit replats for the various phases of the Painted Tree Subdivision for which plats have been approved prior to final approval of the FEMA LOMR such that the plats for all of the phases of the Painted Tree Subdivision accurately reflect the location of the FEMA Zone AE floodplain upon and across or adjacent to the twenty-four (24) "Floodplain Lots" and the Painted Tree Subdivision as required by the City's Subdivision Regulations.
- D. Owner has entered into a professional services contract with _____ to prepare and obtain approval of the amending plats or replats for the various phases of the Painted Tree Subdivision for which plats have been approved prior to final approval of the FEMA LOMR for the Painted Tree Subdivision such that the plats for all of the phases of the Painted Tree Subdivision accurately reflect the location of the FEMA Zone AE floodplain upon and across or adjacent to the twenty-four (24) "Floodplain Lots" and the Painted Tree Subdivision as required by the City's Subdivision Regulations as required by the Facilities Agreement with **JEN TEXAS 22, LLC** (the "Amending Platting/Replatting Contract").

- E. Owner has agreed to deposit with City cash in the amount of Forty-Eight Thousand and No/100 Dollars (\$48,000.00) representing one hundred twenty percent (120%) of the estimated cost for the completion of the amending platting or replatting process for the Painted Tree Subdivision under the Facilities Agreement (the "Cash Deposit"), and have agreed to conditionally assign to City the Owner's rights under the Amending Platting/Replatting Contract.
- F. As a condition to its agreements under the Construction Facilities Agreement, City has required the execution and delivery of this Assignment by Owner.

NOW, THEREFORE, in order to further secure the obligations of Owner under the Facilities Agreement, the parties hereby agree as follows:

1. Deposit of Cash. Owner agrees to tender the Cash Deposit to City upon the execution of this Assignment in the amount of Forty-Eight Thousand and No/100 Dollars (\$48,000.00).
2. Assignment of Amending Platting/Replatting Contract. As additional security for the performance of Owner's obligations under the Facilities Agreement, Owner hereby transfers and assigns to City and grants City a security interest in all of Owner's rights and interest, but not its obligations in, under, and to the Amending Platting/Replatting Contract upon the following terms and conditions:

Owner represents and warrants that the copies of any Amending Platting/Replatting Contract it has furnished or will furnish to City are a true and complete copy thereof and that Owner's interest therein is not subject to any claim, setoff, or encumbrance.

Neither this Assignment nor any action by City shall constitute an assumption by City of any obligation under the Amending Platting/Replatting Contract, and Owner shall continue to be liable for all obligations of Owner thereunder, Owner hereby agrees to perform all of its obligations under the Amending Platting/Replatting Contract. Owner further agrees to indemnify and hold City harmless against and from any loss, cost, liability or expense (including but not limited to attorneys' fees and expenses) resulting from any failure of Owner to so perform.

City shall have the right at any time (but shall have no obligation) to take in its name or in the name of Owner such action as City may at any time determine to be necessary or advisable to cure any default under the Amending Platting/Replatting Contract or to protect the rights of Owner or City thereunder. City shall incur no liability if any action so taken by it or in its behalf shall prove to be inadequate or invalid, and Owner agrees to hold City free and harmless against and from any loss, cost, liability or expense (including but not limited to attorneys' fees and expenses) incurred in connection with any such action.

Owner hereby constitutes and appoints City as Owner's attorney-in-fact, in Owner's name or in City's name to enforce all rights of Owner under the Amending Platting/Replatting Contract.

Prior to the occurrence of a default, Owner shall have the right to exercise its rights as owner under the Amending Platting/Replatting Contract provided that Owner shall not cancel or amend the Amending Platting/Replatting Contract or do or suffer to be done any act which would impair the security constituted by this Assignment without the prior written consent of City.

3. Termination of Assignment. Upon completion of the amending platting or replatting process for the Painted Tree Subdivision to accurately reflect the location of the FEMA Zone AE floodplain upon and across the twenty-four (24) "Floodplain Lots" to conform to the City's Subdivision Regulations required by the Facilities Agreement and acceptance and approval thereof by City, this Assignment shall terminate. City shall return the Cash Deposit to Owner within ten (10) days of the termination of this Assignment.
4. Representations of Owner. Owner covenants and represents to City that (i) Owner has full right, title, power, and authority to assign the Amending Platting/Replatting Contract; (ii) no other assignment or interest therein has been made; and (iii) there are no existing defaults under the provisions of the Amending Platting/Replatting Contract.
5. Successors and Assigns. This Assignment shall inure to the benefit of Owner and City and shall be binding upon such successors and assigns.

IN WITNESS WHEREOF, the parties have executed this instrument as of the day and year first written above.

OWNER:

JEN TEXAS 22, LLC, a Texas limited liability company

By: 
MICHAEL W. BRADY
Vice President

Date Signed: 1-17-25

ACCEPTED AND AGREED:

CITY OF MCKINNEY

By _____

PAUL G. GRIMES

City Manager

Date Signed: _____

ATTEST:

EMPRESS DRANE
City Secretary
TENITRUS BETHEL
Deputy City Secretary

SPIARS ENGINEERING, INC., a Texas S.
Corporation company

By: *Tristan Poore*

TRISTAN POORE, P.E.

Engineer of Record

Date Signed: *1/8/2025*

PREPARED IN THE OFFICES OF:

BROWN & HOFMEISTER, L.L.P.
740 E. Campbell Road, Suite 800
Richardson, Texas 75081
214/747-6100
214/747-6111 Fax

EXHIBIT F
VARIANCES

1. No variances for this Property are granted and none shall be allowed.